

FILED

MAR 10 2005

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

**NEBRASKA DEPARTMENT
OF INSURANCE**

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE,

PETITIONER,

vs.

RICHARD A. KERNS,

RESPONDENT.

CAUSE NO.: A-1607

CONSENT ORDER

In order to resolve this matter, the Nebraska Department of Insurance ("Department"), by and through its attorney, Christine M. Neighbors, and Richard A. Kerns ("Respondent"), mutually stipulate and agree as follows:

JURISDICTION

1. The Department has jurisdiction over the subject matter and Respondent pursuant to Neb.Rev.Stat. §44-101.01 and §44-4047, et seq.
2. Respondent is licensed as a resident insurance producer under the laws of Nebraska at all times material hereto.

STIPULATIONS OF FACT

1. The Department initiated this administrative proceeding by filing a petition styled State of Nebraska Department of Insurance vs. Richard A. Kerns on March 10, 2005. A copy of the petition was served upon the Respondent at his registered address of 6905 N. 97th Circle, Omaha, NE 68122 by certified mail, return receipt requested, and to the office of his legal counsel, P. Shawn McCann, Sodoro, Daly & Sodoro.

2. Petitioner alleges Respondent engaged in conduct violating *Neb. Rev. Stat.* §44-4028 (11) on or about January 20, 1998 and February 2, 1998, when he, through his relationship with M.H. Meyer and M.E. Meyer as insurance agent, arranged for loans in the amount of \$60,000 and \$68,000 respectively from M.H. Meyer's Irrevocable Life Insurance Trust and M.E. Meyer's Irrevocable Life Insurance Trust. Respondent, as President of Arrowhead Pavilions, Inc., signed a Promissory Note setting forth the interest rate and terms of loan repayment to the respective Trusts. To date, no interest or principal has been paid.

3. Further, on or about May 10, 1998, Respondent, as President of Arrowhead Pavilions, Inc., signed a Loan Principal Guarantee Agreement with KEMA Corporation. KEMA Corporation is a Nebraska corporation. Respondent's daughter, Julie Nieto, is President of KEMA Corporation. Respondent's spouse, Ireta Kerns, is a Director of KEMA Corporation. Under the agreement, KEMA Corporation agreed to acquire and maintain a life insurance policy on the life of M.H. Meyer and a policy on the life of M.E. Meyer to assure, in the event of death prior to repayment, the full repayment of any unpaid balance of the principal amount of said Promissory Note.

4. Respondent was informed of his right to a public hearing. Respondent waives that right, and enters into this Consent Order freely and voluntarily. Respondent understands and acknowledges that by waiving his right to a public hearing, Respondent also waives his right to confrontation of witnesses, production of evidence, and judicial review.

5. Respondent admits the allegations contained in the Petition and restated in Paragraphs 2 and 3 above.

CONCLUSIONS OF LAW

Respondent's conduct as alleged above constitutes violations of Neb.Rev.Stat. §44-4028 (11).

CONSENT ORDER

It is therefore ordered by the Director of Insurance and agreed to by Respondent, Richard A. Kerns, that Respondent shall pay an administrative fine in the amount of \$1,000 due within thirty (30) days after the date the Director of Insurance signs this Consent Order.

The Nebraska Department of Insurance shall retain jurisdiction of this matter for the purpose of enabling the Respondent or the Department to make application for such further orders as may be necessary.

In witness of their intention to be bound by this Consent Order, each party has executed this document by subscribing his or her signature below.

Christina M. Nighboers
Attorney for Petitioner

3/10/05
Date

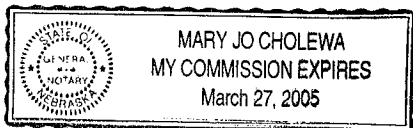
Richard A. Kerns
Richard A. Kerns

3-8-05
Date

State of Nebraska)
County of Douglas) ss.

On this 9 day of April, 2005, Richard A. Kerns personally appeared before me and read this Consent Order, executed the same and acknowledged the same to be his voluntary act and deed.

Mary Jo Cholewa
Notary Public



CERTIFICATE OF ADOPTION

I hereby certify that the foregoing Consent Order is adopted as the Final Order of the Nebraska Department of Insurance in the matter of State of Nebraska Department of Insurance vs. Richard A. Kerns, Cause No.: A-1607.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE



L. TIM WAGNER
Director of Insurance

3/10/05

Date

CERTIFICATE OF SERVICE

I hereby certify that a copy of the executed Consent Order was served upon Respondent by mailing a copy to 6905 North 97th Circle, Omaha, NE 68122 by certified mail, return receipt requested, and his legal counsel, P. Shawn McCann, Sodoro, Daly & Sodoro, 200 Century Professional Plaza, 7000 Spring Street, Omaha, NE 68106 by U.S. Mail, postage prepaid, on this 21st day of March, 2005.

